

Application No.: 10/761,367

REMARKS

As a preliminary matter, it is noted that the Examiner has not fully initialed the PTO-1449 form submitted with the Information Disclosure Statement filed on January 25, 2008. In particular, the Examiner did not initial the Japanese Office Action (w/English translation) listed in the "Other Art" section of the PTO-1449 form. It is respectfully requested that the Examiner provide Applicant another copy of the PTO-1449 form in which the Examiner initials the Japanese Office Action indicating it was considered and made of record.

Claims 2 and 5 stand rejected under 35 U.S.C. § 112, second paragraph. It is respectfully submitted that the enclosed amendment obviates the alleged indefiniteness. Accordingly, it is respectfully requested that this rejection be withdrawn.

Claims 1-8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hitotsui '629 ("Hitotsui"). Claim 1 is independent. This rejection is respectfully traversed for the following reasons.

Claim 1 recites in pertinent part, "management information holding means for holding the management information recorded in the recording medium; and correction control means for, *after* data is *newly* recorded to the recording medium, correcting an abnormal portion of the management information corresponding to the newly recorded data with reference to the management information held in the management information holding means" (emphasis added). According to one aspect of the present invention, it can be made possible to correct an abnormal portion of the management information based on management information that has been held before the new data is recorded.

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The Examiner's position is not understood. Specifically, Hitotsui is completely silent as to such a feature. The Examiner relies on paragraphs 240 and 256 of Hitotsui as a basis for his position. However, paragraph 240 merely describes the recording of *tracks* and is completely unrelated to correcting the *management information*. Further, paragraph 256 merely describes updating the RTOC in accordance with *each* recording or editing *per se*, so as to disclose only the conventional update process of any given RTOC. Paragraph 256 is completely silent as to correcting a given management information, let alone a portion which corresponds to the *newly* recorded data *with reference to the management information held in the management information holding means*. Indeed, Hitotsui is related to managing tracks recorded in a recording medium in group units, and is unrelated to a correction protocol.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Hitotsui does not anticipate claim 1, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

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Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 102 be withdrawn.

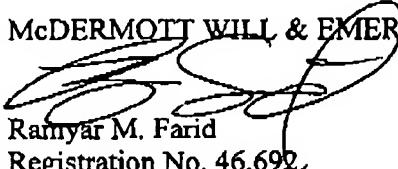
CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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